IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No. 188 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT LEASE FINANCING LTD. - Petitioner(s)
Versus
SAFE BIO-TECH LTD. - Respondent(s)

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Appearance :
MR AMAR N BHATT for Petitioner(s) : 1,
None for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 12/04/2006

ORAL JUDGMENT

1. Mr. Amar N. Bhatt, learned counsel for the petitioner is in attendance. None appears for the respondent though notice is served by direct service.

2. It is to be noticed that on 25.1.2006, this Court observed that the earlier advertisement of date of

hearing did not give 14 days' clear notice between the date of publication and the date of hearing, therefore, the order of admission be readvertised in two daily newspapers i.e., Indian Express(English) and Loksatta-Jansatta (Gujarati), both Vadodara editions. The petitioner has filed necessary affidavit to show that in accordance with the directions of this Court, the advertisements have already been issued. Despite the advertisement of the date of hearing, none appears for the respondent company nor anybody has appeared to raise any objection against the final winding up of the company.

3. According to the petitioner, the respondent company was in need of finance for purchasing 200 litres of Solid Liquid Extraction-cum-Distillation unit and, therefore, had approached the petitioner somewhere in October, 1996 with a request to finance the company for purchase of the above-referred equipment. The petitioner financed an amount of Rs. 10,41,000/- to enable the respondent company to obtain the said equipment on hire purchase basis and the respondent company agreed to repay to the petitioner the amount so financed in 60 equal monthly installments of Rs. 32,167/- each. According to them, number of the

cheques were issued by the respondent company in favour of the petitioner, some of the cheques could be encashed, but most of the cheques were dishonoured by the bankers of the respondent company. Immediately, thereafter, the petitioner issued statutory notice to the respondent. Pursuant to the service of the notice, the respondent company paid an amount of Rs. 50,000/-, but did not pay the remaining amount nor did they reply to the said statutory notice.

4. After hearing the learned counsel for the petitioner and taking into consideration that the respondent company is not making payment of the amount of the loan taken by it from the petitioner company, its cheques are dishonoured and despite the statutory notice, it has failed to make payment and that it has not chosen to appear before the Court to contest the petition nor has taken any part in the matter after the admission, I hold that the Court has reason to believe that the respondent company has lost its substratum, it is unable to pay its debts and it has become financially bankrupt. The petition is allowed. The respondent company is ordered to be wound up. The Official Liquidator present in the Court is hereby directed to take possession of the property

(movable/immovable) of the company along with all its accounts/account books and any money lying with the company or lying in the bank accounts of the company. If required, the Official Liquidator may take services of an Official Valuer. The Official Liquidator may submit his report separately within three months.

(***R. S. Garg, J.***)

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